

Royal Commission into Defence and Veteran Suicide

KCI Lawyers Fact Sheet ¹

The Government's establishment of the Royal Commission into Defence and Veteran Suicide (**RCDVS**) on 8 July 2021 follows years of unrelenting demand from those who tragically lost a Veteran to suicide, the very public campaigns of Julie-Ann Finney, Karen Bird, Nikki Jamieson and many others, and the political demands of Senator Lambie, the ALP and the Greens.

This is your opportunity to make a submission to the RCDVS **before March 2022** to ensure that your story is told to the Royal Commissioner. Whether you are spouse, partner or family member of a Veteran, now is the time to have your say. Whether you assist Veterans as an ESO, volunteer within the Veteran community, or are aware of problems and issues that may contribute to Defence or Veteran suicide, now is the time to have your say.

The RCDVS is not limited to those Defence members and Veterans who lost their lives to suicide. It also covers those who behave, live in a way or take risks that suggests they are, or have been, suffering psychologically and have contemplated giving up rather than continuing to fight to live. This is called suicidal ideation or behaviour, and it includes those Defence members and Veterans who have made an attempt, whether passively or otherwise, to end their lives.

1. Making your submission – getting started

The RCDVS website (defenceveteransuicide.royalcommission.gov.au) provides the online Submission Form. You can also lodge the Submission Form by post to RCDVS, GPO Box 3273 SYDNEY NSW 2001.

As a starting point, the Submission Form requires your personal details. You need to outline the following:

- **Who you are (Q1)** - You need to confirm that the submission is about you, another person, an organisation (eg an ESO) or interested party (Q1.8). You can be a family member, friend, legal guardian (Q3.1).

You can make a submission as part of an organisation in whatever capacity you hold, whether a volunteer or paid advocate (Q2.1). As the organisation may have rules about whether you can make a submission in your personal capacity, you may need to seek permission from the organisation or let the organisation know that you intend to make a submission if, for example, it includes your experiences about the services they provide to Veterans.

- **Addressing the Terms of Reference (TOR) (Q4.1)** - This is the cornerstone of your submission and why this Royal Commission is needed. You need to identify which of the TOR your submission is about. You will need to carefully identify in the relevant

¹ This document is produced for general information regarding the RCDVS and should not be relied upon as legal advice. If you have any questions regarding your submission and how it relates to your circumstances or another's circumstances, you should obtain independent legal advice from **Greg Isolani** of **KCI Lawyers, Level 5, 488 Bourke Street, Melbourne, Victoria 3000, Tel: (03) 86735888 Mob: 0405138711 Email: gregisolani@kcilawyers.com.au and reception@kcilawyers.com.au**

categories and how your circumstances (or when describing another person's circumstances or within an organisation) fit into the TOR.

- **Selecting the TOR** - Whilst you can simply "tick a box", making a submission can tell the Royal Commissioner about your or another's experience that may "tick many boxes". For example, if you have been part of previous Government or other Reviews (there have been many), an Inquest or an investigation by the Inspector General of the ADF (IGADF) regarding Defence and Veteran suicide, you may identify "common themes and issues" that you have expressed, read about or wish to outline how they relate to your or another's experiences regarding suicide, or suicidal ideation or behaviour.

The TOR subcategorises the relevant "risk factors", which may be unique to your circumstances or cover a number of features in your submission, for example:

- **Recruitment process and training** (whether within a particular area of ADF (Navy, Army, Air Force) and within specific sections of that particular service).
- **Transitional management**, which is also another serious issue that many Veterans face. That is, after their career investment and transitioning into civilian life, to what extent, if any, they are supported by the ADF. This can mean the chain of command, medical treatment and facilities, and/or access to DVA before and after discharge.
- **Impact of the culture** within ADF, the Department of Defence, and the DVA on the Veterans' mental health, both during service and after discharge. This can include, for example, your experiences with DVA and the MSBS claims management, timely decision-making, appeals, advocacy and so forth.
- **Support services for families and others** including family members of a late Veteran, a (former) spouse, brother, sister and a family friend. This can explain what services were (or were not) available following a Veteran's passing or following a near death event. This can include next of kin experiences dealing with the ADF separately to DVA as well as other institutions, for example, the Coroners Court, the local police and the IGADF.
- **Government / Defence or DVA Inquiries**. If you are aware or have been involved in the Inquiries into issues relating to Veterans' suicide or serious mental health issues facing Veterans, like the "Constant Battle" Productivity Commission review into DVA, you can also reflect on those "common themes" that you feel may or may not have been acted on and caused ongoing issues.
- **Issues among Defence members and Veterans accessing claims, entitlements and support services**. There will be many Veterans and their families and friends who will have been directly affected by DVA's administration of their compensation claims. If these experiences have been a feature or have contributed to the mental health issues of a Veteran, then you should make reference to this and provide examples.

2. Drafting your submission – attachments

The RCDVS website does not provide a framework or Guide on how to draft your submissions using the online Submission Form.

For some Veterans, their story may have been told or has been the subject of a previous Inquiry, including in the Coroners Court, an IGADF Inquiry or in a submission to a Senate review into Veteran suicide or other investigation.

You can provide material in support of your submission as an attachment (Q6.1). Rather than attaching a file and expecting the RCDVS to review everything you have provided, you may wish to selectively go through your material with the view of only providing the most relevant information relating to your submission, keeping in mind the particular TOR you have identified.

Some examples of relevant documents include medical reports (outlining the consequences of what occurred), police reports, the findings of investigations that have been undertaken, findings from a Coroner, and findings from the IGADF or other inquiry.

This is your opportunity to tell the RCDVS about your experiences following previous investigations. You can add any concerns or comments with respect to any previous findings and how it relates to the TOR you have identified. This will assist the RCDVS to learn about the process to date.

3. Confidentiality (Q7.1)

The Submission Form asks you to select an option regarding the publication of your submission. You must select one of three options:

- I agree to my submission being made public with your name identified
- I agree to my submission being made public without your name identified
- I do not want my submission to be made public.

Should you agree for your submission to be made public (with or without your name), the RCDVS may consider certain information and material to be redacted (blanked out), for example, individual names, or particular area within the ADF, IGADF, DVA, or a particular area of service.

Privacy or Security concerns

If you are called as a witness at the Hearing, you will need to request that your evidence is given in private as you cannot assume that the evidence and information you provide before the Royal Commissioner will remain confidential.

4. What happens next – Hearing before the Royal Commissioner

Once the RCDVS has considered all “relevant” submissions, the Royal Commissioner will determine those individuals and organisations that are required to appear before the Commissioner so that relevant questions can be asked and information gathered. This can include you being asked to produce a document or something connected to your submission and supporting material.

This role is similar to the function undertaken by a Coroner but in some ways, it is more complex as it is governed by different rules. You can request to be legally and independently represented by a lawyer of your choice to ensure your legal rights are protected. The outcome of the RCDVS hearing is obviously different to a Coroner who determines the “manner and cause” of death with possible recommendations.

The Commissioner reads the submissions and hears evidence that relates to the Terms of Reference. The ultimate outcome is to make recommendations in a final report to the Parliament of Australia.

5. The Royal Commissioner Report and Recommendations

The interim report is to be completed by **11 August 2022** and the final report by **15 June 2023**.

This means that the RCDVS will have a lot of work to do in a short period of time given written submissions are expected to be finalised by **March 2022** and hearings will be undertaken Australia wide.

6. Legal assistance - Legal Financial Assistance Scheme

The Attorney-General's Department has set up a **Legal Financial Assistance Scheme** to provide financial assistance for legal representation and disbursements (ie the costs) for people and organisations who have lodged submissions and are called or granted leave to appear as a witness at a public or private hearing.

The legal costs can include the lawyer's time associated with you being interviewed in response to a request to provide a written submission that will be used as evidence, or in compliance with the notice to produce a particular document if requested by the Royal Commissioner.

More information regarding the Legal Financial Assistance Scheme is available on the Attorney-General's Department website.

7. Do I need a lawyer to help me?

The Attorney General's Department is also setting up a **National Legal Advice Service** to assist people in making a submission. This includes providing counselling and support services.

At this stage, there is no clear framework as to what assistance, and to what level, will be provided. For example, you may need assistance to determine which relevant documents you wish to provide with your submission. You may also require help to draft your submission and advice as to what further information may be relevant.

If you are or likely to be called to appear at the hearing to give evidence, it is unlikely the Attorney General's Department can provide you guidance regarding issues of confidentiality, protection from disclosure to the public of any of your documents, or providing you with independent legal representation.

If you think your circumstances deserve professional legal advice and guidance, contact KCI Lawyers who have extensive experience with helping Veterans, Defence members and their families beyond lodgment of DVA claims and appeals to the Veterans' Review Board.

KCI Lawyers has extensive experience regarding the issue of Defence and Veteran Suicide. We have represented the families of many suicided Veterans in the Coroners Courts in various jurisdictions. We have made submissions to the Government over years on this issue.

The opportunity to make a submission to help shape the Government, DVA and Defence on this important issue of Defence and Veterans' Suicide is too important to leave it the Attorney General, Advocates and Lawyers. Your insight into this issue is invaluable.

Contact Greg Isolani and the team at KCI Lawyers to help you on this journey.



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